

**HARD COPY**

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



**ADMINISTRATIVE PROCEEDING**  
File No. 3-16353

**In the Matter of**

**SPRING HILL CAPITAL MARKETS, LLC,  
SPRING HILL CAPITAL PARTNERS, LLC,  
SPRING HILL CAPITAL HOLDINGS, LLC,  
and KEVIN D. WHITE,**

**Respondents.**

**MOTION *IN LIMINE* TO PRECLUDE RESPONDENTS FROM INVOKING A  
'RELIANCE ON COUNSEL' DEFENSE**

The Division of Enforcement ("Division") respectfully submits the following memorandum of law in support of its motion *in limine* to preclude Respondents in the above-captioned matter from asserting as a defense the claim that they relied upon advice of counsel, pursuant to Rules 111, 154, 220(c), and 320 of the Rules of Practice.

**PRELIMINARY STATEMENT**

On January 22, 2015, an order instituting proceedings ("OIP") was filed against Respondents Spring Hill Capital Markets, LLC ("SHCM"), Spring Hill Capital Holdings, LLC ("SHCH"), and Spring Hill Capital Partners, LLC ("SHCP") (collectively "Spring Hill") and Respondent Kevin D. White, Spring Hill's founder, CEO, and majority owner. The OIP charges

that: (1) SHCP willfully violated Section 15(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”) by engaging in unregistered broker-dealer activity; (2) SHCM willfully violated Sections 15(c)(3) and 17(a) of the Exchange Act and Rules 15c3-1, 17a-3(a)(1), and 17a-11(b)(1) thereunder as a result of its failure to maintain accurate books and records and its failure to comply with net capital requirements; and (3) SHCH, the parent company of SHCP and SHCM, along with White, willfully aided and abetted and caused the above-referenced violations<sup>1</sup> as well as a separate books and records violation on the part of Rafferty Capital Markets (“RCM”), a broker-dealer through which SHCP and SHCM cleared and settled their trades.

The instant proceedings involve White’s circumvention of the basic requirement that firms seeking to act – and hold themselves out to the investigating public as – broker-dealers must first become registered. Eager to generate revenue for his business, White took a shortcut around the legal requirements by setting up two affiliates: SHCM, the entity White used to apply for a broker-dealer license with FINRA; and SHCP, which operated an active unregistered broker-dealer business to generate income for White’s firms while SHCM’s application was pending. Throughout the FINRA application process for SHCM, White and other representatives of Spring Hill consistently provided FINRA misleading information about SHCP’s business activities, falsely claiming that SHCP “did not conduct a securities business” when, in fact, more than 85% of the firm’s revenue came from its broker-dealer business, including buying and selling securities on behalf of customers. When asked direct questions about revenue that SHCP had received from RCM (the firm to which SHCP introduced trades), Spring Hill, with White’s knowledge and consent, identified the payments, which White knew to

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<sup>1</sup> Except for SHCM’s Rule 17a-3(a)(1) violation.

be the proceeds of trading revenue, as “consulting fees” allegedly earned for providing advice and consultation to RCM.

Spring Hill’s efforts to deceive regulators continued for years, reaching into 2011 and 2012 when Spring Hill, in documentation reviewed by White, misleadingly described SHCP’s trading revenue as consulting payments in correspondence sent to staff of the Securities & Exchange Commission (“Commission”), Office of Compliance Inspections and Examinations (“OCIE”). In addition, Spring Hill also doctored a trade blotter presented to the Commission in connection with transactions concerning a collateralized debt obligation (“CDO”) issued bond, which occurred in March 2010. The first leg of these transactions began before SHCM had received a letter from FINRA giving the firm clearance to begin operations as a broker-dealer on March 4, 2010. To cover up broker-dealer activity that occurred before this date and to conceal a net capital violation related to this transaction, Spring Hill maintained and presented to regulators inaccurate books and records. The OIP seeks to hold Respondents accountable for this conduct, and a hearing in this Administrative Proceeding is currently scheduled for May 11, 2015.

#### **FACTS SUPPORTING THE INSTANT MOTION**

During the fact-finding and investigative stage that preceded the filing of the OIP, Respondents withheld certain relevant documents and communications from the Division on the basis of the attorney-client privilege. For example, on May 21, 2013, Respondents’ then-counsel Matthew Mazur, a litigation partner at the law firm, Dechert LLP, sent a privilege log to the Division identifying documents that Respondents had not produced although they were covered by document subpoenas submitted to Spring Hill. *Exhibit A*. The privilege log encompassed nearly 80 communications between Respondents and their counsel that Respondents were

withholding from production in order to preserve their attorney-client privilege. *Id.*

Accordingly, Respondents successfully withheld from the Division relevant information to the investigation by asserting their attorney-client privilege rights as a defense to the production of attorney-client communications.

Even before this production of a privilege log, Respondents had sent Commission staff examiners, on January 31, 2012, a clawback request to assert and safeguard the attorney-client privilege. *Exhibit B.* Despite honoring Respondents' invocation of the attorney-client privilege to withhold relevant communications, because counsel for Respondents at a later stage in the investigation made representations suggestive that his clients may have relied upon a lawyer, SHCP's former partner John Fernando, the Division asked Respondents point blank to put their cards on the table and state openly whether Spring Hill believed it had an advice of counsel defense to any potential action and, if so, whether Respondents would agree to waive the privilege so that any such defense could be evaluated. On December 12, 2014, these requests from the Division were memorialized in a letter sent to current counsel for Respondents inquiring "as to whether [SHCP] and Kevin White intend to assert a reliance on counsel defense and, accordingly, are prepared to waive attorney-client privilege" given representations made by counsel in a white paper that White purportedly relied on SHCP's "general counsel" John Fernando to ensure his firm's agreement with RCM "complied with securities laws." *Exhibit C.* The Division's letter reminded counsel that "a party who refuses to disclose that [legal] advice may not then assert an advice of counsel defense because the attorney-client privilege cannot be used as a 'sword and shield.'" *Id.* Acknowledging this correspondence, on December 15, 2014, counsel for Respondents replied that "[a]t this time, Spring Hill has not decided whether it will be asserting a reliance on counsel defense." *Exhibit D.*

Respondents understood that if they sought to rely on an advice of counsel defense, they would have to waive privilege, but that conversely if they continued to use the attorney-client privilege as a shield to withhold discovery on the issue of what alleged advice was received, they should be precluded from later asserting a reliance on counsel defense. *Exhibit C*.

In response to the OIP filed in January 2015, Respondents filed an answer in these proceedings on February 18, 2015 (“Answer”). While the Answer vaguely asserted as a Fifth Affirmative Defense that “[t]he violations alleged in the [OIP] were committed by or were the responsibility of third-parties for which the Respondents did not have control[,]” the Answer clearly did not assert an advice of counsel defense (which was consistent with the fact that Respondents had not waived privilege to establish a basis to support or investigate such a defense). However, on or about April 14, 2015, Respondents provided the Division with an Exhibit List that identified as prospective Respondents’ Exhibit #104 “John Fernando’s New York Bar Registration Information.” *Exhibit E* (Respondents’ Exhibit List). Although the Division does not oppose Respondents or any witnesses testifying as to their understanding whether Mr. Fernando was an attorney, for several reasons discussed below, any attempt on the part of Respondents to belatedly assert reliance on counsel as a defense in this proceeding would be both flawed and improper, and, therefore should be precluded.

#### **LEGAL STANDARD**

“Rule 111 of the Commission’s Rules of Practice, which is based upon Section 556(c) of the Administrative Procedure Act, 5 U.S.C. § 556(c), (APA), provides a list of powers of an Administrative Law Judge (ALJ) that includes ‘receiving relevant evidence and ruling upon the admission of evidence and offers of proof’ and ‘regulating the course of a proceeding. . . .’” *In*

*the Matter of Russo Securities, Inc.*, Exchange Act Rel. 562, 1998 WL 211391, at \*1 (Apr. 21, 1998). Under Section 556(d) of the APA, “[a]ny oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.” 5 U.S.C. § 556(d). Additionally, pursuant to Rule 320 of the Rules of Practice, “[t]he Commission or the hearing officer may receive relevant evidence and shall exclude all evidence that is irrelevant, immaterial or unduly repetitious.” Rules of Practice, Rule 320.

Further, Rule 220(c) of the Rules of Practice expressly requires parties to assert any defenses they intend to assert at an Administrative Proceeding in their answer. Specifically, the rule provides:

Unless otherwise directed by the hearing officer or the Commission, an answer shall specifically admit, deny, or state that the party does not have, and is unable to obtain, sufficient information to admit or deny each allegation in the order instituting proceedings. . . . A defense of res judicata, statute of limitations or any other matter constituting an affirmative defense shall be asserted in the answer. Any allegation not denied shall be deemed admitted.

Rules of Practice, Rule 220(c) (emphasis added).

Having failed to assert an advice of counsel defense in their Answer and having withheld documents and communications from the Division under the shield of attorney-client privilege, Respondents should be precluded from attempting to raise an advice of counsel defense during the upcoming hearing.

### **LEGAL DISCUSSION**

It is hornbook law that “the attorney-client privilege cannot at once be used as a shield and a sword.” *United States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991). *See also In re von Bulow*, 828 F.2d 94, 103 (2d Cir. 1987); *see also Clark v. United States*, 289 U.S. 1, 15, 53 S.Ct. 465, 469, 77 L.Ed. 993 (1933) (“The privilege takes flight if the relation is abused.”). A

defendant may not use this privilege to prejudice his opponent's case or to disclose some selected communications for self-serving purposes. *Bilzerian*, 926 F.2d at 1292; *Von Bulow*, 828 F.2d at 101-02.

Importantly, "in order to prevent such use, the 'at issue' doctrine precludes a party from 'disclos[ing] only self-serving communications,' while 'bar[ring] discovery of other communications that an adversary could use to challenge the truth of the claim.'" *HSH Nordbank AG New York Branch v. Swerdlow*, 259 F.R.D. 64, 74 (S.D.N.Y. 2009) (quoting *In re Adelpia Commc'ns Corp.*, 2007 WL 601452, at \*3 (Bankr. S.D.N.Y. Feb.20, 2007)). See also *Bilzerian*, 926 F.2d at 1292. In the instant matter, Respondents used the attorney-client privilege to shield communications from the Division and preclude the Division from subpoenaing witnesses like John Fernando. Therefore, Respondents should not be allowed to turn around and introduce "only self-serving communications" allegedly occurring between White (or any other current Spring Hill employee, for that matter) and John Fernando in an attempt to show reliance on advice of counsel.<sup>2</sup> *Swerdlow*, 259 F.R.D. at 74.

Respondents should also be precluded from asserting an advice of counsel defense because they did not assert this defense in their Answer, which they filed in this matter on or about February 18, 2015. Rule 220(c) of the Rules of Practice mandates that a party "shall" assert "any [] matter constituting an affirmative defense" in its answer. It is well-settled that failure to comply with this rule waives a defense. See, e.g., *In the Matter of George J. Kolar*, Adm. Proc. File No. 3-9570, Exchange Act Rel. No. 152, 1999 WL 977373, at \*22 (Oct. 28,

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<sup>2</sup> To sustain an advice of counsel defense, the party asserting the defense must establish that it: (1) made complete disclosure to counsel; (2) sought advice as to the legality of specific conduct; (3) received advice that his conduct was legal; and (4) relied on that advice. *SEC v. Tourre*, 950 F. Supp. 2d 666, 682 (S.D.N.Y. 2013).

1999) (“Affirmative defenses must be pled in an answer, see Rule 220(c); cf. Fed. R. Civ. Pro. 8(c), or they are waived.”) (citation omitted)).

### CONCLUSION

For all the foregoing reasons, the Division respectfully requests that the Court grant its motion *in limine* to preclude Respondents from asserting as a defense in this matter the claim that they relied upon advice of counsel.

Dated April 27, 2015  
New York, New York

### DIVISION OF ENFORCEMENT

/s/ Nicholas A. Pilgrim  
Nicholas A. Pilgrim  
Daniel M. Loss  
Securities and Exchange Commission  
New York Regional Office  
Brookfield Place, 200 Vesey Street, Suite 400  
New York, NY 10281  
Tel: 212.336.0924  
Email: [pilgrimn@sec.gov](mailto:pilgrimn@sec.gov)

CERTIFICATE OF SERVICE

I hereby certify that I served true copies by electronic mail of the foregoing Motion *in Limine* to Preclude Respondents From Invoking a 'Reliance Upon Counsel' Defense on the following on the 27th day of April, 2015.

The Honorable Carol Fox Foelak  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549  
alj@sec.gov

Ronald W. Dunbar, Jr., Esq.  
Dunbar Law PC  
197 Portland Street  
Boston, MA 02114  
Counsel for Respondents

Dated: April 27, 2015

/s/ Nicholas A. Pilgrim  
Nicholas A. Pilgrim

# EXHIBIT A

**From:** Mazur, Matthew [mailto:Matthew.Mazur@dechert.com]  
**Sent:** Tuesday, May 21, 2013 1:05 PM  
**To:** Pater, Joshua  
**Cc:** Rosenberg, Benjamin  
**Subject:** 2013 05 21 SHCM privilege log.PDF

Josh,

As promised, Spring Hill's privilege log. Apologies for the slight delay.

Matt

Matthew L. Mazur  
Dechert LLP  
+1 212 649 8791 Direct  
+1 212 698 3599 Fax  
[matthew.mazur@dechert.com](mailto:matthew.mazur@dechert.com)  
[www.dechert.com](http://www.dechert.com)

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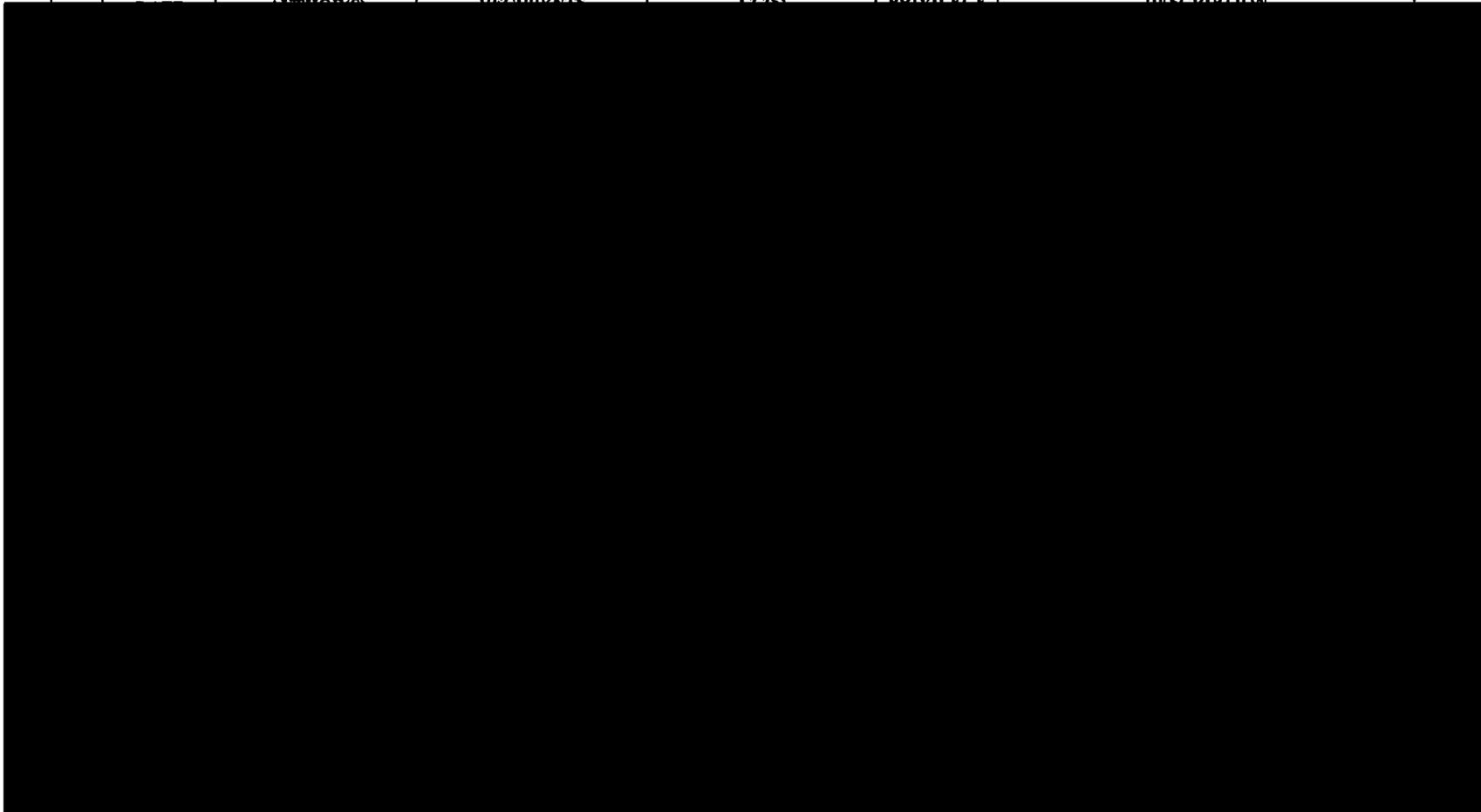




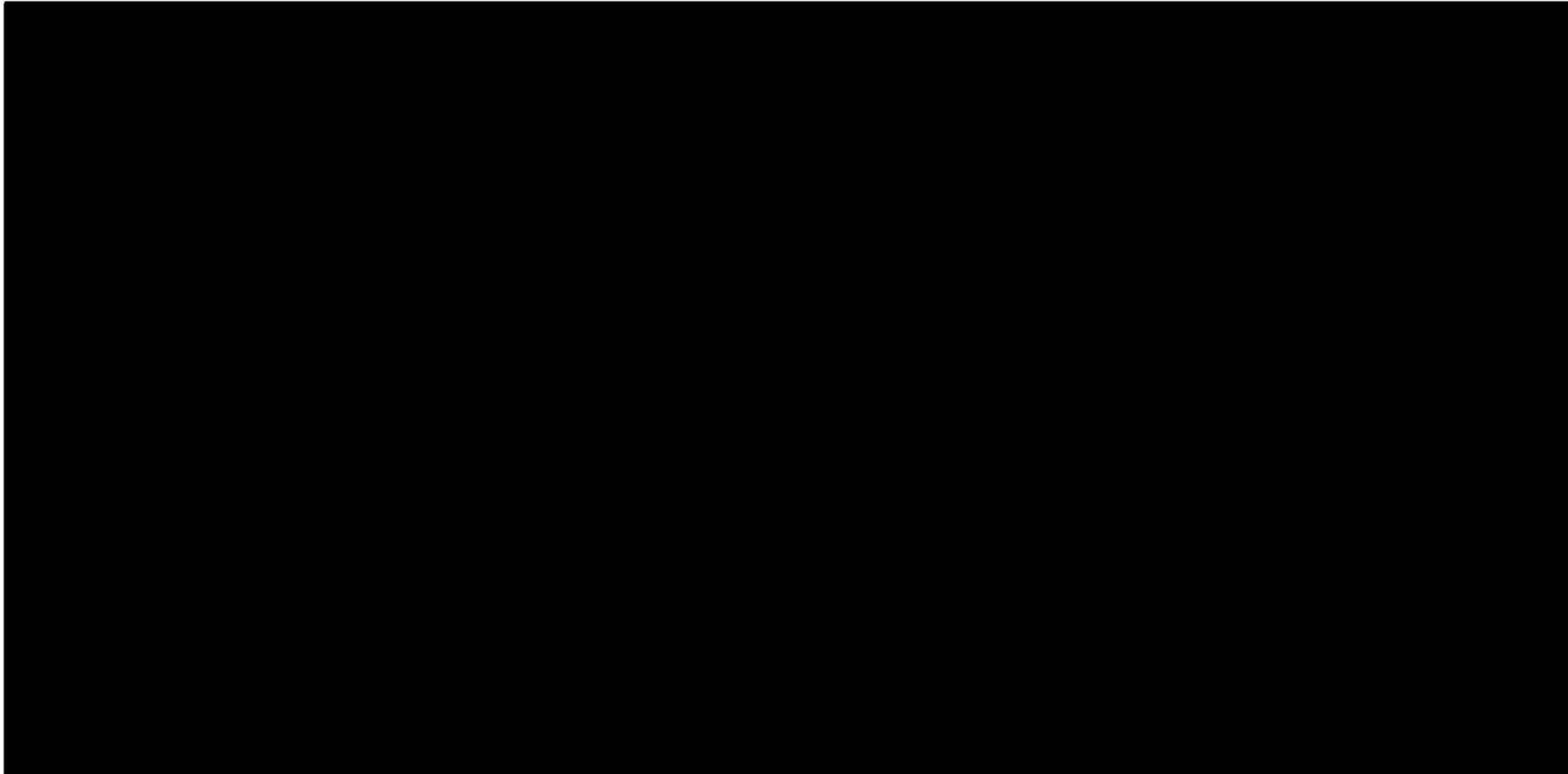


CONFIDENTIAL TREATMENT REQUESTED BY  
SPRING HILL CAPITAL MARKETS LLC

		AUTHORITY	REQUIREMENTS	CC(S)	PRIVILEGE	DESCRIPTION
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**CONFIDENTIAL TREATMENT REQUESTED BY  
SPRING HILL CAPITAL MARKETS I.L.C**



CONFIDENTIAL TREATMENT REQUESTED BY  
SPRING HILL CAPITAL MARKETS LLC

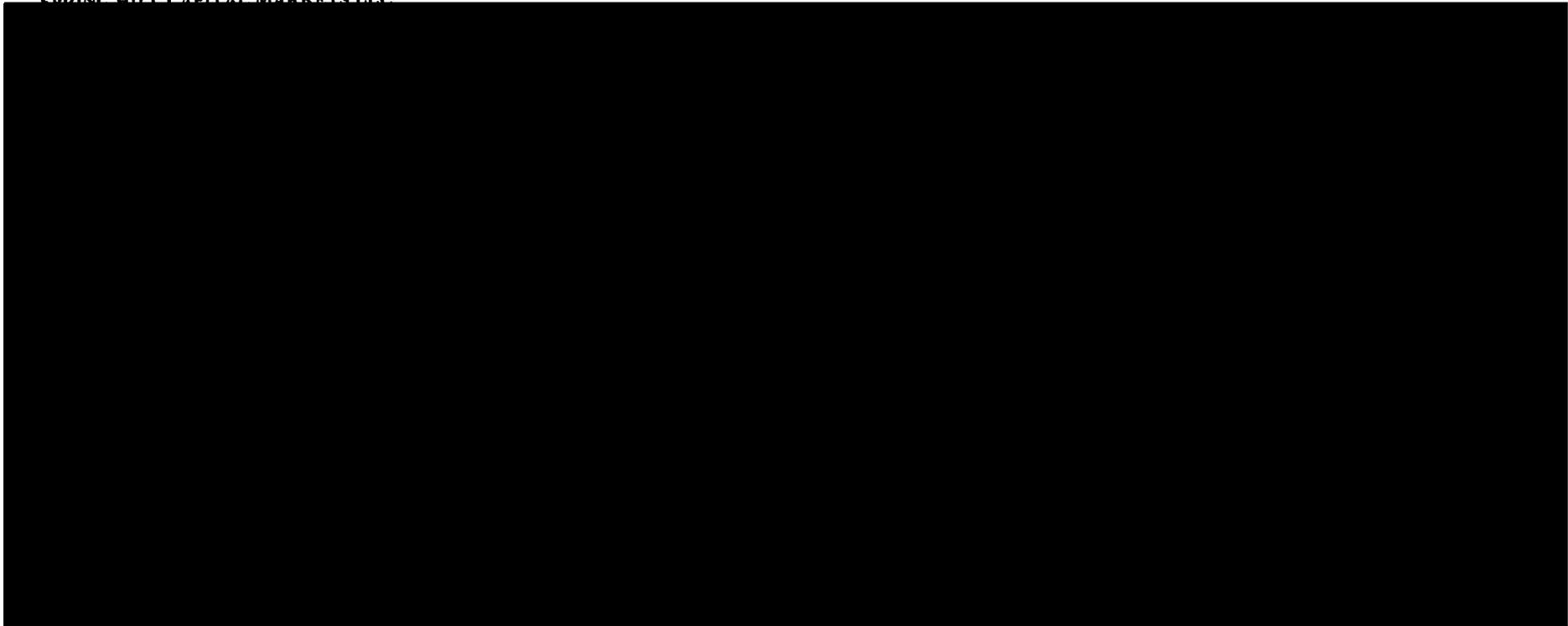
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CONFIDENTIAL TREATMENT REQUESTED BY

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**CONFIDENTIAL TREATMENT REQUESTED BY  
SPRING HILL CAPITAL MARKETS LLC**



# EXHIBIT B

**From:** [Panetta, Yvette](#)  
**To:** [Pater, Joshua](#)  
**Subject:** FW: Log of confidential Emails  
**Date:** Tuesday, January 31, 2012 8:33:24 AM  
**Attachments:** [Log of confidential emails.xlsx](#)

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*Yvette Z. Panetta*

Exam Manager  
U.S. Securities and Exchange Commission  
3 World Financial Center, Suite 400  
New York, NY 10281-1022  
(212) 336-0913  
[panettay@sec.gov](mailto:panettay@sec.gov)

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**From:** Forbes, Caroline E.  
**Sent:** Tuesday, December 20, 2011 3:52 PM  
**To:** Quinteros, Yvette  
**Cc:** Kress, Michael; Bacharach, Adam  
**Subject:** FW: Log of confidential Emails

I received the disks from Andre today.

**From:** Andre Hohenstein [<mailto:AHohenstein@springhillcap.com>]  
**Sent:** Monday, December 19, 2011 9:43 PM  
**To:** Forbes, Caroline E.; Bacharach, Adam  
**Cc:** Richard Egan; [kwhite@springhillcap.com](mailto:kwhite@springhillcap.com)  
**Subject:** Log of confidential Emails

Caroline, Adam –

Please find enclosed the log of confidential emails. All emails not listed in the log can be opened. The content of one of the returned flash drives has been encrypted and I did not have a chance to check the emails on this particular drive. We like to add emails from the encrypted drive to the log only if there are emails with subject matters like the ones listed in the log. One of my colleagues will deliver all drives to you tomorrow (3 World Financial Center, Suite 400).

Best,

Andre

Andre Hohenstein

SPRING HILL CAPITAL PARTNERS, LLC

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W: 212-485-8085

C: 646-610-7910

# EXHIBIT C



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
NEW YORK REGIONAL OFFICE  
Brookfield Place  
200 Vesey Street  
Room 400  
NEW YORK, NEW YORK 10281-1022

WRITER'S DIRECT DIAL LINE  
(212) 336-9134  
LossD@sec.gov

December 12, 2014

Via E-Mail and UPS

Ronald W. Dunbar, Jr., Esq.  
Dunbar Law P.C.  
197 Portland Street  
5th Floor  
Boston, MA 02114

Re: Spring Hill Capital Markets, LLC (NY-08690)

Dear Mr. Dunbar:

I am writing to memorialize the staff's earlier inquiries as to whether Spring Hill Capital Partners, LLC ("SHCP") and Kevin White intend to assert a reliance on counsel defense and, accordingly, are prepared to waive attorney-client privilege with respect to communications concerning SHCP's arrangement to introduce trades to Rafferty Capital Markets, LLC ("Rafferty").

In the August 14, 2014 white paper submitted on behalf of SHCP and Mr. White, you asserted that "Mr. White relied upon SHCP's general counsel and partner, John Fernando, to negotiate the terms of the Rafferty Contract so that it complied with securities laws" and that "Dechert LLP . . . knew full-well that SHCP intended to enter into the Rafferty Contract . . . [and] never made Mr. White aware that the Rafferty Contract itself, or the trading arrangement established under the Rafferty Contract, could be considered a violation of federal securities laws." You stated that Mr. White "[c]onsequently . . . believed that the arrangement with Rafferty was perfectly legitimate" and that Mr. White "act[ed] in good faith with the guidance of (1) general counsel [and] (2) Dechert."

In light of these assertions, during our meeting with you on September 5, 2014, the staff requested that SHCP and Mr. White consider waiving privilege to assist in our evaluation of their conduct. Despite our request and despite Mr. White's apparent invocation of reliance upon counsel, SHCP and Mr. White have declined to waive privilege.

As you know, a party who intends to assert reliance on counsel necessarily places his communications with, and advice received from, counsel at issue and, therefore, waives privilege on the issue of what advice was received. Conversely, a party who refuses to disclose that advice may not then assert an advice of counsel defense because the attorney-client privilege cannot be used as a "sword and shield."

Please advise in writing by December 15 whether or not SHCP and Mr. White intend to assert an advice of counsel defense and are now prepared to waive privilege with respect to communications with Mr. Fernando and Dechert LLP regarding SHCP's arrangement with Rafferty.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel M. Loss". The signature is written in a cursive style with a large initial "D" and a long horizontal stroke at the end.

Daniel M. Loss  
Counsel  
Division of Enforcement

# EXHIBIT D

**From:** [Ronald W. Dunbar, Jr.](#)  
**To:** [Loss, Daniel](#)  
**Cc:** [Chase, Celeste](#)  
**Subject:** Re: SH  
**Date:** Monday, December 15, 2014 9:25:30 PM

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Dan,

At this time, Spring Hill has not decided whether it will be asserting a reliance on counsel defense. [REDACTED]  
[REDACTED]

Have you submitted your recommendation to the Commission yet?

Thank you.

Ron

On Dec 12, 2014, at 2:51 PM, Loss, Daniel <[lossd@SEC.GOV](mailto:lossd@SEC.GOV)> wrote:

Ron,

[REDACTED] and  
[REDACTED]

Dan

**From:** Ronald W. Dunbar, Jr. [<mailto:dunbar@dunbarlawpc.com>]  
**Sent:** Wednesday, December 10, 2014 5:15 PM  
**To:** Loss, Daniel  
**Cc:** Chase, Celeste  
**Subject:** SH

Dan

[REDACTED]

Ron

Ronald W. Dunbar, Jr.  
Dunbar Law P.C.  
197 Portland Street, 5th Floor  
Boston, Massachusetts 02114  
Tel: (617) 244-3550  
Fax: (617) 248-9751  
Web: [www.dunbarlawpc.com](http://www.dunbarlawpc.com)  
Email: [dunbar@dunbarlawpc.com](mailto:dunbar@dunbarlawpc.com)

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# EXHIBIT E

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 74119/January 22, 2015

INVESTMENT COMPANY ACT OF 1940  
Release No. 31426/January 22, 2015

ADMINISTRATIVE PROCEEDING  
File No. 3-16353

In the Matter of )  
)  
)

Spring Hill Capital Markets, LLC, )  
Spring Hill Capital Partners, LLC, )  
Spring Hill Capital Holdings, LLC, )  
And Kevin D. White, )

Respondents. )  
)  
)

**RESPONDENT'S EXHIBIT LIST**

1. 03/23/09 SH-SEC 00014060 Exhibit 185 – Email from Michael Rafferty to Kevin White
2. 03/31/09 RCML-SEC 001583 Exhibit 103 – Email from Barbara Martens to Keith Fell, Michael Rafferty regarding 3 points regarding our proposed relationship
3. 03/31/09 RCML-SEC 001747 Exhibit 104 – Email from Larry Rafferty to Michael Rafferty regarding meeting with Kevin White
4. 04/02/09 RCML-SEC 001749 Exhibit 105 – Email from Keith Fell to Michael Rafferty regarding Kevin White pricing schedule
5. 04/06/09 RCML-SEC 001750 Exhibit 106 – Email from Michael Rafferty to Barbara Martens, Keith Fell regarding call with Kevin White
6. 04/06/09 RCML-SEC 001584 Exhibit 107 – Email to Barbara Martens to Keith Fell regarding Attachment A

7. 04/06/09 RCML-SEC 001751 Exhibit 139 – Email from Michael Rafferty to Keith Fell
8. 04/06/09 RCML-SEC 001752 Exhibit 140 – Email from Keith Fell to Barbara Martens, Michael and Larry Rafferty, Spring Hill Service Agreement and Attachment
9. 04/06/09 RCML-SEC 001760 Exhibit 141 – Email from Michael Rafferty to Keith Fell regarding Spring Hill Service Agreement and Attachment
10. 04/07/09 RCML-SEC 001586 Exhibit 108 – Email from Barbara Martens to Irene Tansey regarding Attachment A (2)
11. 04/07/09 RCML-SEC 001761 Exhibit 142 – Email chain from Michael Rafferty to Keith Fell and Barbara Martens, follow-up to emails regarding Service Agreements
12. 04/07/09 RCML-SEC 001588 Email from Michael Rafferty to Kevin White regarding paperwork
13. 04/13/09 RCML-SEC 001590 Email from Kevin White to Keith Fell regarding service Agreement & Attachment A
14. 04/13/09 RCML-SEC 001591 Email from Michael Rafferty to Kevin White regarding need for clarification
15. 04/13/09 RCML-SEC001592 Email from Kevin White to Michael Rafferty regarding receipt of documents
16. 04/20/09 RCML-SEC 001768 Exhibit 161 – Email from Michael Rafferty to Larry Rafferty, Keith Fell, Barbara Martens regarding conversation with Kevin White regarding doc, looks fine except for a few minor det's
17. 04/21/09 RCML-SEC 001594 Exhibit 109 – Email John Fernando to Keith Fell regarding blacklined agreement and blacklined attachment A
18. 04/21/09 RCML-SEC 001593 Exhibit 143 – Email from Michael Rafferty to Kevin White regarding remarks on documents

19. 04/22/09 RCML-SEC 001603 Email from John Fernando to Keith Fell regarding clarification on paragraphs 6 & 7
20. 04/22/09 RCML-SEC 001604 Exhibit 110 – Email from Barbara Martens to Keith Fell regarding proposed changes and questions
21. 04/22/09 RCML-SEC 001605 Exhibit 111- Email from Barbara Martens to Keith Fell standard books and records retention chart and revised to only files that Spring Hill may generate
22. 04/22/09 RCML-SEC 001609 Email from John Fernando to Keith Fell regarding paragraphs 6 & 7
23. 04/22/09 RCML-SEC 001777 Exhibit 162 – Email chain between Keith Fell and John Fernando regarding Spring Hill regarding revisions to standard books and records retention chart for SH
24. 04/23/09 RCML-SEC 001781 Exhibit 163 -- Email from Keith Fell to John Fernando regarding Blacklined Agreement
25. 04/24/09 RCML-SEC 001613 Email from John Fernando to Keith Fell regarding blacklined agreement; SHCP is a Delaware LLC not NY Corp
26. 04/27/09 Exhibit 136 - Letter from Thomas Murooney to Crews & Associates regarding individuals at Rafferty who are authorized to Trade with Crews & Associates
27. 04/28/09 RCML-SEC 001616 Email from John Fernando to Keith Fell regarding how the execution of agreement is coming
28. 04/28/09 RCML-SEC 001618 Email Barbara Martens to Heather Harrison regarding Blacklined agreements (3)
29. 04/30/09 RCML-SEC 001625 Email from John Fernando to Keith Fell regarding Blacklined agreements – where to send executed documents

30. 04/30/09 RCML-SEC 001800 Email from John Fernando to Keith Fell regarding discussing clearing arrangement
31. 04/30/09 RCML-SEC 001804 Exhibit 164 - Email chain between Keith Fell and John Fernando regarding blacklined agreement
32. 05/05/09 RCML-SEC 001816 Exhibit 165 - Email chain between Keith Fell and John Fernando regarding blacklined agreement
33. 05/06/09 RCML-SEC 001819 Exhibit 144 -- Email chain from Michael Rafferty to Keith Fell, regarding SH insure wants SH to run their auctions, call with SH lawyers to discuss potential liabilities, etc.
34. 05/12/09 RCML-SEC 001848 Exhibit 145- Email from Michael Rafferty to Keith Fell regarding email chain between Kevin White and Michael Rafferty
35. 05/12/09 RCML-SEC 001824 Exhibit 146 - Email from Michael Rafferty to Keith Fell regarding chat with Spring Hill
36. 05/15/09 RCML-SEC 001626 Email from John Fernando to Barbara Martens Attachment A
37. 05/26/09 RCML-SEC 000850 Exhibit 112 -- Email Michael Rafferty to Barbara Martens, Keith Fell "if we can't do agreement with SH as discussed how do we get indemnified?"
38. 07/02/09 RCML-SEC 000798 Exhibit 117 - Email from Barbara Martens to Keith Fell and Michael Rafferty regarding Draft Consulting document
39. 07/07/09 RCML-SEC 001628 Exhibit 113 -- Email from Barbara Martens to Steve Sprague regarding Attachment A
40. 07/08/09 RCML-SEC 000865 Exhibit 147 Email from Craig O'Neill to Steven Sprague, Cameron Heaney; Barbara Martens regarding Spring Hill Numbers
41. 07/09/09 RCML-SEC 000812 Email from John Fernando to Keith Fell regarding new consulting agreement

42. 07/09/09 RCML-SEC 001525 Email from Barbara Martens to John Fernando regarding Commission Sharing and Introducing Broker Agreement
43. 07/10/09 RCML-SEC 000869 Exhibit 148 Email from Michael Rafferty to Steven Sprague regarding check for Spring Hill, 108K
44. 07/13/09 RCML-SEC 000870 Exhibit 149 Email from Michael Rafferty to Steve Sprague, Frances Mack Regarding payment to Spring Hill
45. 07/09/09 RCML-SEC 001535 Email from John Fernando to Barbara Lawrence regarding agreements
46. 07/14/09 RCML-SEC 000829 Email from John Fernando to Barbara Martens, Keith Fell with attachment of Advisory Services Agreement; blacklined Advisory Services Agreement
47. 07/14/09 RCML-SEC 001641 Exhibit 115 – Email from John Fernando to Barbara Martens and Keith Fell with attachments; executed services and cost sharing agreement, original Attachment A, revised Attachment A, blacklined exhibit
48. Exhibit 116 – Services Cost Sharing Agreement
49. SH-SEC 0000742 Exhibit 118 – Advisory Services Agreement
50. 07/15/09 RCML-SEC 000840 Email from Barbara Martens to John Fernando regarding clarification of I. in attachment
51. 07/15/09 RCML-SEC 000842 Email from Barbara Martens to Michael Rafferty regarding Advisory Services Agreement – please sign
52. 07/19/09 RCML-SEC 001504 Email from Lawrence Solomon to Barbara Martens regarding Commissions Sharing Agreement
53. 08/14/09 RCML-SEC 000883 Exhibit 150 – Email chain John Fernando, Barbara Martens to Steve Sprague, Maggie Reilly Michael Rafferty and Keith Fell regarding spreadsheet for monthly payment/fees

54. 10/29/09 RCML-SEC 000935 Exhibit 119 – Email from John Fernando to Keith Fell and Barbara Martens, increase monthly advisory fee for the next few months?
55. RCML-SEC 000365 Exhibit 135 – Email from Thomas Mulrooney, Barbara Martens to All RCM Registered Representatives regarding Written Supervisory Procedures
56. 11/03/09 RCML-SEC 001062 Exhibit 166 – Email John Fernando, Keith Fell, Barbara Martens increasing advisory fee
57. 11/12/09 RCML-SEC 000956 Exhibit 167 – Email chain Steve Sprague, Keith Fell, Barbara Martens regarding SH payment procedures
58. 12/28/09 SH-SEC0000747 Letter from Keith Fell to Kevin White regarding FINOP Oversight
59. 01/20/10 Email from Kevin White to Patrick Quinn, John Fernando, Richard Egan, Tim White regarding FINRA
60. 02/2010 SH-SEC00010758 Spring Hill Capital Partners, LLC 2009: 4<sup>th</sup> Quarter Update
61. 2/2010 SH-SEC0010767 Spring Hill Capital Partners, LLC 2010: 4<sup>th</sup> Quarter Update
62. 2/2010 SH-SEC0005577 Spring Hill Capital Partners, LLC Advisory and Capital Markets Overview Sociate Generale
63. 02/10/10 RCML-SEC 001018 Exhibit 151 – Email from Barbara Martens to Steve Sprague, Keith Fell, Michael Rafferty regarding January 2010 Rafferty Invoice
64. 02/24/10 Exhibit 71 – Email from Roger Cozzi to Kevin White regarding 15MM of GKKRE 2005-1 A1
65. 03/01/10 Exhibit 8 – Email Lauren O’Neill to Paul Tedeschi regarding trade ticket – Citi sells to SH

66. 03/01/10 Email from Paul Tedeschi to Patrick Quinn, John Fernando regarding GKK
67. 03/02/10 Exhibit 23 – Email John Fernando to Kevin White regarding Roger offering for roughly 85% of purchase price financing
68. 03/03/10 Exhibit 11 – Email from Kevin White to Paul Tedeschi, John Fernando, Lauren O’Neill regarding trade docs
69. 03/16/10 Exhibit 27 – Email from Kevin White to Roger Cozzi regarding GKKRE pass tickets today. Settle is for 3/18
70. 03/17/10 Exhibit 64 – Email from Patrick Quinn to Kevin White, John Fernando, Richard Egan, Tim White, Paul Tedeschi, David Baharenstani, Lauren O’Neill regarding GKKRE 2005-1 A1 Trade Ticket, tickets passed on today
71. 03/18/10 GKK0003192 Exhibit 75 – Email from Lindsey O’Connor to Jared Marcus; Bryce Webster, Jon Clark, Roza Stone, Myles Wolfe, Jeffrey Scapicchio, Jamie Pisaz, Tommy Chan regarding GKKRE 2005-1 Class A1 Bond Purchase
72. 03/18/10 GK0003186 Exhibit 76 – Email from Jared Marcus to Roger Cozzi, Tim O’Connor, Bob Foley, Michael Kavourias regarding GKKRE 2005-1 A1 Bond Purchase with Attachment CDO 2005-1 A1 Bond Purchase
73. 03/23/10 FORM U4 Uniform Application for Securities Industry Registration or Transfer for Steve Sprague
74. 06/23/10 Exhibit 59 – Email from Pratik Patel to Paul Tedeschi regarding GKK Next steps
75. 02/24/10 Email from Kevin White to Roger Cozzi regarding 15MM of GKKRE 2005-1 A-1
76. 02/25/10 GKK00000625 Email from Kevin White to Roger Cozzi regarding “got a sec?”
77. 03/01/10 Email from Tatum Turner to Kevin White regarding Roger Cozzi

78. 03/01/10 GKK00000559 Email from Roger Cozzi to Kevin White "got a second?"
79. 03/02/10 GKK00000558 Email from John Fernando to Joseph Romano "I hear u own a little of gkk?"
80. 03/02/10 GKK00000517 Email from John Fernando to Joseph Romano regarding 5 pm discussion as to where you stand of facility we discussed.
81. 03/03/10 Email from Kevin White to Paul Tedeschi, John Fernando regarding Trade docs
82. 03/09/10 Email from Kevin White to Roger Cozzi regarding Wednesday dinner
83. 03/11/10 GKK00000494 Email from John Fernando to Jared Yavers regarding reschedule of lunch
84. 03/15/10 GKK00000477 Email from Roger Cozzi to Kevin White regarding "good call today"
85. 03/16/10 GKK00000456 Email from Kevin White to Roger Cozzi regarding GKKRE with attachment Kevin D White
86. 03/15/10 GKK00000478 – Email from Kevin White to Roger Cozzi regarding "good call today"
87. 03/16/10 GKK00000459 – Email chain from Lindsey O'Connor to Patrick Quinn regarding Account set-up with attachment of GKK Capital LP W9
88. 03/16/10 GKK00000468 – Email chain from Lindsey O'Connor to Patrick Quinn regarding Account set-up with attachments – GKK Captial LP Delivery Instructions; trading authorization 3/16/10; Wells Settlement Instructions; Gramercy Real Estate CDO 2005-1 delivery instructions; Gramercy Real Estate CDO 2006-1 Delivery instructions

89. 03/16/10 GKK00000475 – Email from Tatum Turner to Roger Cozzi regarding call from Kevin White
90. 03/17/10 GKK00000450 – Email from Kevin White to Roger Cozzi regarding thank you for trade
91. 03/15/10 Email from Kevin White to Paul Tedeschi regarding Beware of the Ides of March
92. 03/16/10 Email from Kevin White to Paul Tedeschi regarding Beware of the Ides of March
93. 03/16/10 Email from Patrick Quinn to Kevin White, David Baharestani regarding GKK
94. 03/16/10 Email from Cameron Heaney to Patrick Quinn regarding account set-up
95. 03/16/10 Email chain Lindsey O'Connor to Patrick Quinn regarding account set-up
96. 03/16/10 Email from Patrick Quinn to Cameron Heaney regarding account set-up
97. 03/16/10 Email from Kevin White to Paul Tedeschi regarding Beware of the Ides of March done at S74, nice trade
98. 03/16/10 Email from Cameron Heaney from Patrick Quinn regarding account set-up
99. 03/17/10 Email from Patrick Quinn from Cameron Heaney attached GKK NAF.pdf
100. 03/17/10 Email from Cameron Heaney regarding GKKRE 2005-1 A1 Trade Ticket
101. 01/2010 SH-SEC 0010796 Look Book Spring Hill Capital Partners, LLC – Spring Hill Overview

102. 01/2010 SH-SEC 0010816 Look Book Spring Hill Capital Partners, LLC –  
Spring Hill Overview – LNR Property Corporation
103. 01/2010 SH-EC 0010836 Look Book Spring Hill Capital Partners, LLC –  
Spring Hill Overview – LNR Property Corporation
104. John Fernando's New York Bar Registration Information
105. 04/28/09 Services and Cost Sharing Agreement
106. 07/05/09 Advisory Services Agreement

Respectfully Submitted,

SPRING HILL CAPITAL PARTNERS, LLC,  
SPRING HILL CAPITAL MARKETS, LLC,  
SPRING HILL CAPITAL HOLDINGS, LLC  
And KEVIN WHITE,

By Their Attorneys,



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Dated: April 13, 2015